IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7575 OF 2006

Makarand Madhusudan Ranade .. Petitioner

V/s

Union of India & Ors. .. Respondents

Mr.Y.S. Jahagirdar, Senior Advocate with Mr.S.R. Atre for the petitioner.

Mr.R. Rodriques with Mr.N.R, Prajapati for respondent no.1.

Mr.C.R. Sonawane, A.G.P. for respondent no.2.

Mrs.N.V. Masurkar for respondent no.3.

CORAM : S.B. MHASE &
D.G. KARNIK, JJ.

DATE : 27TH SEPTEMBER 2007

P.C. :

1. Heard learned counsel for the parties.

2. In addition to the reasons which have been recorded by the Central Administrative Tribunal, to which we agree, we do not see any merit in the petition for the following reasons.

3. In the year 2004, there were 18 vacancies in the IPS cadre to be nominated from amongst the police officers in the State cadre. Accordingly, a select list was prepared of 18 candidates. However, only 16 officers were nominated and 2 persons were not nominated. In the next year (i.e. 2005), there were 4 vacancies in the IPS cadre to be filled in from the police officers in the State cadre. According to Mr.Jahagirdar, learned counsel for the petitioner, two vacancies of the year 2004, which were not filled in, ought to have been carried forward while considering the available vacancies in the year 2005. If so considered, there would be 6 vacancies and the petitioner would be included in the said zone of consideration.

4. Perusal of the notification dated 17th January 2006 (Exhibit-C to the petition) shows the names of 18 candidates who were included in the select list of the year 2004. Below the said table, there is a note to the following effect:-

> "The name at Sr.No.12 has been included in the list provisionally subject to clearance in the disciplinary proceedings pending against him and grant of integrity certificate by the State Government.

> The name at Sr.No.16 has been included in the list provisionally subject to clearance in the criminal proceedings pending against him and grant of integrity certificate by the State Government."

The said note makes it clear why only 16 candidates were nominated to IPS cadre though 18 were selected. As per the note, the candidates at Sr.Nos.12 and 16 were not issued appointment orders because of pendency of disciplinary proceedings and/or for want of integrity certificate from the State Government and their cases were to be considered after the clearance from the disciplinary proceedings and issuance of integrity certificates. In other words, till those 2 candidates were deleted on account of disciplinary proceedings and/or non-issuance of integrity certificate by the State Government, the posts were not vacant and were only kept unfilled till the result of the disciplinary proceedings. Though strictly a sealed procedure was not followed and the two candidates were selected, their appointments were deferred. If eventually they are cleared, they would occupy the said posts and there would be no vacancy of the year 2004 to be carried forward. The vacancy would arise only after conclusion

of the disciplinary proceedings and the occasion for carry forward of the vacancies would arise only when the candidates at Sr.Nos.12 and 16 do not make to the select list finally. In the circumstances, for considering the select list of 2005, the two vacancies of 2004 could have been taken into consideration.

5. For these additional reasons, we reject the writ petition summarily.

(D.G. KARNIK, J.) (S.B. MHASE, J.)